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5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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8 JOSEPH JOHN ETCHEVERRY,

1:05-CV-00454-OWW-DLB-HC  
Appeal #06-17398

9 Petitioner,

10 ORDER ACKNOWLEDGING PLAINTIFF'S  
vs. LEAVE TO PROCEED IN FORMA PAUPERIS  
11 ON APPEAL

12 JEANNE WOODFORD,

13 ORDER VACATING ORDER  
Respondent. OF JANUARY 11, 2007  
(Doc. 27)

14 ORDER DIRECTING CLERK TO SERVE  
15 COPY OF THIS ORDER ON THE COURT  
OF APPEALS

16 Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus  
17 pursuant to 28 U.S.C. § 2254. On November 15, 2006, petitioner filed a notice of appeal to the Court  
18 of Appeals for the Ninth Circuit.

19 On January 11, 2007, the district court ordered petitioner to submit an application to proceed  
20 in forma pauperis or pay the \$455.00 filing fee for the appeal. On January 22, 2007, petitioner  
21 submitted a letter to the court, providing evidence that the court of appeals granted him leave to  
22 proceed in forma pauperis on appeal. Petitioner is correct. A review of the Ninth Circuit's docket  
23 shows that on February 27, 2007, the court of appeals granted petitioner's motion to proceed in forma  
24 pauperis. For this reason, the district court shall vacate its order requiring petitioner to file an  
25 application or pay the filing fee for the appeal.

26 Accordingly, IT IS HEREBY ORDERED that :

27 1. The district court acknowledges that petitioner has been granted leave to proceed in  
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forma pauperis on appeal;

2. The district court's order of January 11, 2007, which ordered petitioner to submit an application to proceed in forma pauperis or pay the \$455.00 filing fee for his appeal, is VACATED in its entirety; and
3. The Clerk is directed to serve a copy of this order on the Court of Appeals for the Ninth Circuit.

IT IS SO ORDERED.

Dated: March 5, 2007

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/s/ **Dennis L. Beck**

UNITED STATES MAGISTRATE JUDGE